

SENATE BILL 19

R5

0lr0497

(PRE-FILED)

By: **Senator Lenett**

Requested: August 18, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Use of Wireless Telephone While Driving – Prohibitions**

3 FOR the purpose of prohibiting a driver of a certain school vehicle from using a certain
4 wireless telephone under certain circumstances; prohibiting a holder of a
5 learner's instructional permit or provisional driver's license who is 18 years of
6 age or older from driving a motor vehicle while using a certain wireless
7 telephone; prohibiting a certain driver of a motor vehicle that is in motion from
8 using the driver's hands to use a certain wireless telephone except under certain
9 circumstances; establishing penalties for a violation of this Act; authorizing the
10 court to waive a certain penalty under certain circumstances; providing for
11 exceptions to certain provisions of this Act relating to prohibitions on using a
12 wireless telephone while driving; defining certain terms; and generally relating
13 to prohibitions against the use of a wireless telephone while operating a motor
14 vehicle.

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 18–213.2(a)(7) and (8)
18 Annotated Code of Maryland
19 (2009 Replacement Volume)

20 BY repealing and reenacting, without amendments,
21 Article – Transportation
22 Section 21–1124
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2009 Supplement)

25 BY adding to
26 Article – Transportation
27 Section 21–1124.2

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2009 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Health – General**

6 18–213.2.

7 (a) (7) “First responder” means a:

8 (i) Fire fighter;

9 (ii) Emergency medical technician;

10 (iii) Rescue squad member;

11 (iv) Law enforcement officer;

12 (v) Correctional officer; or

13 (vi) Sworn member of the State Fire Marshal’s office.

14 (8) “Law enforcement officer” means any individual who, in an official
15 capacity, is authorized by law to make arrests and who is a member of one of the
16 following law enforcement agencies:

17 (i) The Department of State Police;

18 (ii) The Baltimore City Police Department;

19 (iii) The police department, bureau, or force of any county;

20 (iv) The police department, bureau, or force of any incorporated
21 city or town;

22 (v) The office of the sheriff of any county;

23 (vi) The police department, bureau, or force of any bicounty
24 agency or constituent institution of the University System of Maryland, Morgan State
25 University, St. Mary’s College, or of any institution under the jurisdiction of the
26 Maryland Higher Education Commission;

27 (vii) The Maryland Aviation Administration police force of the
28 Department of Transportation, the Maryland Transit Administration police force of
29 the Department of Transportation, the Maryland Transportation Authority police

1 force, and the Maryland Port Administration police force of the Department of
2 Transportation;

3 (viii) The law enforcement officers of the Department of Natural
4 Resources;

5 (ix) The Field Enforcement Bureau of the Comptroller's Office;
6 or

7 (x) The Internal Investigative Unit of the Department of Public
8 Safety and Correctional Services.

9 Article – Transportation

10 21–1124.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) “9–1–1 system” has the meaning stated in § 1–301 of the Public
13 Safety Article.

14 (3) “Wireless communication device” means:

15 (i) A handheld or hands–free device used to access a wireless
16 telephone service; or

17 (ii) A text messaging device.

18 (b) This section does not apply to the use of a wireless communication device
19 to contact a 9–1–1 system.

20 (c) A holder of a learner's instructional permit or a provisional driver's
21 license who is under the age of 18 years may not use a wireless communication device
22 while operating a motor vehicle.

23 (d) A police officer may enforce this section only as a secondary action when
24 the police officer detains a driver for a suspected violation of another provision of the
25 Code.

26 (e) (1) If the Administration receives satisfactory evidence that an
27 individual has violated this section, the Administration:

28 (i) May suspend the individual's driver's license for not more
29 than 90 days; and

30 (ii) May issue a restricted license for the period of suspension
31 that is limited to driving a motor vehicle:

- 1 1. In the course of the individual's employment;
- 2 2. For the purpose of driving to or from a place of
3 employment; or
- 4 3. For the purpose of driving to or from school.

5 (2) An individual may request a hearing as provided for a suspension
6 or revocation under Title 12, Subtitle 2 of this article.

7 **21-1124.2.**

8 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
9 **MEANINGS INDICATED.**

10 **(2) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF**
11 **THE PUBLIC SAFETY ARTICLE.**

12 **(3) "WIRELESS TELEPHONE" MEANS A HANDHELD OR**
13 **HANDS-FREE DEVICE USED TO ACCESS A WIRELESS TELEPHONE SERVICE.**

14 **(B) THIS SECTION DOES NOT APPLY TO:**

15 **(1) USE OF A WIRELESS TELEPHONE TO CALL A**
16 **9-1-1 SYSTEM FOR PURPOSES RELATED TO AN EMERGENCY THAT IS ONGOING**
17 **AT THE TIME THE CALL IS MADE;**

18 **(2) USE OF A WIRELESS TELEPHONE BY THE FOLLOWING**
19 **INDIVIDUALS, WHEN ACTING WITHIN THE SCOPE OF OFFICIAL DUTY:**

20 **(I) FIRST RESPONDERS, AS DEFINED IN § 18-213.2 OF THE**
21 **HEALTH - GENERAL ARTICLE;**

22 **(II) STATE HIGHWAY ADMINISTRATION EMPLOYEES OR**
23 **CONTRACTORS ACTING UNDER THE AUTHORITY OF § 8-602 OF THIS ARTICLE IN**
24 **AN EMERGENCY SITUATION; AND**

25 **(III) AN INDIVIDUAL DRIVING FOR A TRANSPORTATION**
26 **SERVICE OPERATING UNDER § 2-103.3 OF THIS ARTICLE; AND**

27 **(3) USE OF A TWO-WAY RADIO THAT OPERATES WITH**
28 **PUSH-TO-TALK TECHNOLOGY BY AN INDIVIDUAL OPERATING A COMMERCIAL**
29 **MOTOR VEHICLE, AS DEFINED IN § 16-803 OF THIS ARTICLE.**

1 **(C) THE FOLLOWING INDIVIDUALS MAY NOT USE A WIRELESS**
2 **TELEPHONE WHILE OPERATING A MOTOR VEHICLE:**

3 **(1) A DRIVER OF A CLASS H (SCHOOL) VEHICLE THAT IS**
4 **CARRYING PASSENGERS AND IS IN MOTION; AND**

5 **(2) A HOLDER OF A LEARNER'S INSTRUCTIONAL PERMIT OR A**
6 **PROVISIONAL DRIVER'S LICENSE WHO IS 18 YEARS OF AGE OR OLDER.**

7 **(D) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL**
8 **SPECIFIED IN SUBSECTION (C) OF THIS SECTION.**

9 **(2) A DRIVER OF A MOTOR VEHICLE THAT IS IN MOTION MAY NOT**
10 **USE THE DRIVER'S HANDS TO USE A WIRELESS TELEPHONE OTHER THAN TO**
11 **INITIATE OR TERMINATE A WIRELESS TELEPHONE CALL OR TO TURN THE**
12 **WIRELESS TELEPHONE ON OR OFF.**

13 **(E) (1) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS**
14 **SUBJECT TO THE FOLLOWING PENALTIES:**

15 **(I) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$50;**
16 **AND**

17 **(II) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF**
18 **\$100.**

19 **(2) FOR A FIRST OFFENSE UNDER THIS SECTION, POINTS MAY**
20 **NOT BE ASSESSED AGAINST THE INDIVIDUAL UNDER § 16-402 OF THIS ARTICLE**
21 **UNLESS THE OFFENSE CONTRIBUTES TO AN ACCIDENT.**

22 **(F) THE COURT MAY WAIVE A PENALTY UNDER SUBSECTION (E) OF THIS**
23 **SECTION FOR A PERSON WHO:**

24 **(1) IS CONVICTED OF A FIRST OFFENSE UNDER THIS SECTION;**
25 **AND**

26 **(2) PROVIDES PROOF THAT THE PERSON HAS ACQUIRED A**
27 **HANDS-FREE ACCESSORY, AN ATTACHMENT OR ADD-ON, A BUILT-IN FEATURE,**
28 **OR AN ADDITION FOR THE PERSON'S WIRELESS TELEPHONE THAT WILL ALLOW**
29 **THE PERSON TO OPERATE A MOTOR VEHICLE IN ACCORDANCE WITH THIS**
30 **SECTION.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2010.